



NATIONAL CONGRESS OF AMERICAN INDIANS

August 31, 2015

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

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NCAI HEADQUARTERS

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RE: NCAI COMMENTS IN THE MATTER OF LIFELINE AND LINK UP REFORM AND MODERNIZATION, WC DOCKET NO. 11-42; TELECOMMUNICATIONS CARRIERS ELIGIBLE FOR SERVICE, WC DOCKET NO. 09-197; AND CONNECT AMERICA FUND, WC DOCKET NO. 10-90

Dear Secretary Dortch,

On behalf of the National Congress of American Indians (NCAI), the oldest and largest representative organization of American Indian and Alaska Native tribal governments, I respectfully submit these comments on the *Second Further Notice of Proposed Rulemaking* to reform and modernize the Lifeline program. NCAI is pleased that the FCC has taken a proactive approach to modernize the Lifeline program to support broadband services for low-income individuals. The Lifeline and Link Up programs have been instrumental in establishing and maintaining vital telecommunications services for low-income individuals on unserved and underserved tribal lands.

While we are pleased that the Commission has acted to modernize the Lifeline program to support its transition to broadband services, there are a number of concerns regarding tribal implications in the Further Notice of Proposed Rulemaking (FNPRM) and the Report & Order (R&O). When the Commission adopted the *Second Further Notice of Proposed Rulemaking* at its Open Meeting on June 18, 2015, it became evident that the enhanced tribal Lifeline support was a primary fixture—if not a blatant target—in the Commission's proposed and adopted reforms of the program.

In particular, Commissioner Pai's statements regarding the enhanced tribal support were alarmingly antagonistic and failed to recognize or acknowledge the program's true successes across Indian Country. Instead, Commissioner Pai's focus on the definition of tribal lands pertaining to Oklahoma significantly overshadowed the program's vital necessity to commence telephone and cell phone service to the nation's most economically distressed and disconnected peoples and lands—a fact that has been acknowledged in virtually every Commission rulemaking that has included tribal implications.

It is unfortunate that despite the record of evidence, alongside the Commission's own understanding of the disparate levels of telecommunications services on tribal lands, tribes must again justify the need for regulatory mechanisms supporting the deployment and maintenance of these services in Indian Country. NCAI supports overhauls to the program in order to cut waste, fraud, and abuse and it is through such reforms that vital Lifeline services can be preserved for those low-income

individuals truly in need of the program, especially those residing on tribal lands. However, such reforms should not come at the expense of disparaging and constraining a program that has supported the country's most disconnected lands and overlooked peoples.

ENHANCED TRIBAL LIFELINE & LINK UP SUPPORT FOSTERS DEPLOYMENT TO TRIBAL LANDS

Created in 1985, the Lifeline program provides a monthly discounted telephone bill to low-income consumers, and in 2008, the program was expanded to include wireless cell phone service. The current Lifeline program offers a monthly discount of \$9.25 per month for low-income individuals enrolled in the program. However, low-income residents of tribal lands are eligible for an increased tribal Lifeline subsidy of up to \$25.00, and thereby eligible for a discount of up to \$34.25 per month. The enhanced tribal Lifeline support was adopted by the Commission in 2000, in recognition of the disparate rates of telephone access on tribal lands. Since adoption of the enhanced tribal Lifeline subsidy tribal lands have witnessed an increase in access to vital telephone services for public safety and economic opportunities.

To qualify for the Lifeline program—inclusive of low-income residents on tribal lands eligible for the enhanced tribal support—consumers must be at or below 135% of the Federal Poverty Guidelines, or eligible for participation in the following programs: Medicaid; the Supplemental Nutrition Assistance Program; Supplemental Security Income; Federal Public Housing Assistance Program (Section 8); Low-Income Home Energy Assistance Program; Temporary Assistance for Needy Families; Tribally-Administered Temporary Assistance for Needy Families; National School Lunch Program's Free Lunch Program; Bureau of Indian Affairs General Assistance; The Food Distribution Program on Indian Reservations; Head Start; or social service programs designated by the states if receiving support from a state universal service fund.

Additionally, the Link Up program was established in 1987, to provide a one-time discount of \$30.00 to incumbent local exchange carriers commencing telephone service to a residence. When the Commission established the enhanced tribal Lifeline program in 2000, it also adopted rules to provide an additional Link Up discount of up to \$70.00 for carriers commencing telephone service to a residence on tribal lands. The up to \$100.00 discount for residents of tribal lands is the only continuing Link Up service available nationwide since the Commission phased out the program for non-tribal lands in the last reform and modernization in 2012. In light of the major proposals to overhaul the Lifeline and Link Up programs, a number of questions have been posed by the Commission to seek data/information to determine the benefits tribal lands have received from these programs.

With the limited data and information available pertaining to telecommunications access on tribal lands, it can be assumed that since 2000, the Lifeline and Link Up programs have spurred telecommunications access to tribal lands. According to the 2000 U.S. Census, "about 69 percent of Native American households on tribal lands in the lower 48 states and about 87 percent in Alaska Native villages had telephone service."¹ However, recently available 2010 U.S. Census data from the American Community Survey (ACS) found that nearly 19 percent of American Indian and Alaska Native people residing on American Indian reservations or federal trust lands lacked access to telephone services, compared to about four percent of the total U.S. population overall:

¹ See Government Accountability Office. "Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands". March 7, 2006. Available at <http://www.gao.gov/assets/120/112955.pdf>.

SUBJECT	United States				
	Total population				American Indian and Alaska Native alone (300, A01-Z99)
	Estimate	Estimate Margin of Error	Percent	Percent Margin of Error	Estimate
SELECTED CHARACTERISTICS					
Occupied housing units	114,235,996	+/-248,114	114,235,996	(X)	803,954
Lacking complete plumbing facilities	602,324	+/-9,016	0.50%	+/-0.1	23,305
Lacking complete kitchen facilities	899,189	+/-9,341	0.80%	+/-0.1	22,404
<i>No telephone service available</i>	<i>4,209,542</i>	<i>+/-21,579</i>	<i>3.70%</i>	<i>+/-0.1</i>	<i>71,037</i>

SUBJECT	United States - American Indian Reservation and Trust Land - Federal				
	Total population	American Indian and Alaska Native alone (300, A01-Z99)			
	Percent Margin of Error	Estimate	Estimate Margin of Error	Percent	Percent Margin of Error
SELECTED CHARACTERISTICS					
Occupied housing units	(X)	142,834	+/-2,259	142,834	(X)
Lacking complete plumbing facilities	+/-0.2	12,268	+/-584	8.60%	+/-0.4
Lacking complete kitchen facilities	+/-0.2	10,745	+/-562	7.50%	+/-0.4
<i>No telephone service available</i>	<i>+/-0.3</i>	<i>27,019</i>	<i>+/-947</i>	<i>18.90%</i>	<i>+/-0.6</i>

Source: 2010 U.S Census, American Community Survey. "Selected Housing Characteristics: 2006-2010 American Community Survey Selected Population Tables". Accessed August 31, 2015. Available at

http://factfinder.census.gov/bkmk/table/1.0/en/ACS/10_SF4/DP04/0100000US/0100089US/0100093US/popgroup~001/006/009

The 2010 U.S Census ACS information indicates about a 12 percent increase in telephone service on American Indian reservations and federal trust lands since the 2000 Decennial Census. Despite the availability of this information today, during the last reform and modernization of the Lifeline and Link Up programs the Commission acknowledged that developing a measurement for subscription rates on tribal lands was unfeasible due to the limited data available in the Census Current Population Survey. For instance, in the 2012 Report and Order to Reform and Modernize the Lifeline and Link Up Programs the FCC stated:

We conclude that it is important to measure telephone penetration for low-income consumers on Tribal lands in light of the unique needs of those consumers and the fact that telephone penetration on Tribal lands has historically lagged telephone penetration for the nation as a whole. However, we do not adopt a separate measurement for low-income penetration on Tribal lands at this time because the necessary data is not available from the Census Bureau. For example, the current yearly Census survey sample size on Tribal lands is not sufficiently large to produce a statistically significant penetration rate for Tribal lands for low-income consumers or the “next-highest” income bracket. We expect the Bureau to continue to monitor the available Tribal lands telephone penetration data. If data is sufficient to create a statistically valid estimate of low-income penetration and the “next highest” income bracket on Tribal lands becomes available, we direct the Bureau to establish a separate measurement for progress towards our first goal with respect to Tribal lands. We also direct the Bureau to publish Tribal penetration data in its statistical reports to the extent that such information is reliable and statistically significant.²

While the FCC proceeds with reforming and modernizing its low-income programs the Commission must be conscientious in adopting reforms that could potentially degrade the success these programs have in Indian Country. The Commission must work with tribal governments, telecommunications providers, and social service departments to determine true eligibility and enrollment of tribal members in the Lifeline program. Through consultation and coordination with these entities the Commission can further develop analyses to ascertain current telecommunications disparities for low-income residents of tribal lands, and develop solutions to further bridge the Digital Divide in Indian Country. Information collected by the National Lifeline Accountability Database should be shared with tribes to compare and contrast against their own data (e.g. enrollment in Tribally Administered Temporary Assistance for Needy Families, BIA General Assistance, the Food Distribution Program on Indian Reservations, etc.).

The Commission has also posed questions under paragraph 171 of the FNPRM regarding proposed changes to the verification of residents on tribal lands. As aforementioned, the Commission should work with tribal governments, telecommunications providers, and social service departments to develop and determine methods for certifying residents of tribal lands. Tribal GIS Departments, or their equivalent, should also be consulted to obtain accurate information on physical addresses of Lifeline subscribers residing on tribal lands. The Commission should also provide tribes with the opportunity and guidance to disclose any information deemed “sensitive” under a protective order if a tribe does not wish to make such information publicly available in the FCC Docket.

LIMITING ENHANCED TRIBAL LIFELINE SUPPORT TO SPARSELY POPULATED TRIBAL LANDS CONTRADICTS UNIVERSAL SERVICE PRINCIPLES TO CONNECT ALL AMERICANS TO AFFORDABLE AND ACCESSIBLE TELECOMMUNICATIONS SERVICE

During the Open Meeting on June 18, 2015, Commissioner Pai expressed disappointment that rather than initiate a broad overhaul of the enhanced tribal Lifeline subsidy the Commission instead decided to seek comment on certain proposals to limit the tribal subsidy to sparsely populated tribal lands. Commissioner Pai’s dissenting remarks stated:

² See Federal Communications Commission. “Report and Order and Further Notice of Proposed Rulemaking, WC Docket No. 11-42, WC Docket No. 03.109, CC Docket No. 96-45, WC Docket No. 12-23”. Footnote 84. Released February 6, 2012. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-12-11A1.pdf.

Today, the Commission should have proposed limiting the enhanced subsidy only to Tribal lands that are sparsely populated (for example, counties with less than 15 people per square mile). Limited Resources should only go to high-cost Tribal lands, not to cities that have advanced telecommunications infrastructure and are in the top 50 in the United States in population, like Tulsa (2010 Census population: 391,906).³

It is unfortunate that the unscrupulous actions and business practices of some non-tribal telecommunications providers in Oklahoma have led to the overall criticism of the enhanced tribal program's effectiveness and importance throughout Indian Country. The notion that the enhanced tribal Lifeline subsidy should be limited only to county level tribal lands with less than 15 people per square mile is blatantly absurd and severely misguided. However, despite Commissioner Pai's proposal to limit the enhanced tribal subsidy to sparsely populated tribal lands, paragraphs 169 and 170 of the FNPRM seek comment on whether such a proposal should be adopted by the Commission. Limiting the enhanced tribal subsidy contradicts the universal service principles mandated under 47 CFR § 254(b). Pursuant to NCAI Resolution #MSP-15-036, "Preserve the Universal Service Fund Lifeline & Link Up Programs for All Tribal Lands and All Native Peoples", NCAI opposes the Commission's proposal to limit the enhanced tribal Lifeline subsidy to sparsely populated tribal lands.⁴ NCAI's resolution specifically states that, "NCAI supports the FCC's focus of enhanced tribal support provided that it does not exclude urban, suburban, or high density areas within tribal lands".⁵

During a recent Hearing held by the House Subcommittee on Communications and Technology, Governor Stephen Roe Lewis of the Gila River Indian Community provided testimony stressing the many issues tribal nations experience in obtaining basic and advanced telecommunications services. The Gila River Indian Community (GRIC) has a reservation land base that is approximately 372,500 acres with 12,000 of its 20,000 enrolled members residing on reservation lands.⁶ Governor Lewis acknowledged that the GRIC reservation has a population density of approximately 20 persons per square mile with the reservation spanning across Pinal and Maricopa Counties in Arizona, which have about 70 and 415 people per square mile respectively.⁷ The median income on the GRIC reservation is \$24,771 and approximately 48 percent of its residents live below the poverty level.⁸ Commissioner Pai's proposal to limit the enhanced tribal Lifeline subsidy to areas with less than 15 people per square mile would have resulted in disastrous consequences for GRIC. Due to the failure of market forces to bring telecommunications infrastructure to their lands, GRIC had to establish Gila River Telecommunications, Inc. (GRTI) to provide telephone and Internet

³ See Federal Communications Commission. "Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order: WC Docket No. 11-42; WC Docket No. 09-197; WC Docket No. 10-90". Pg. 140. Released June 22, 2015. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-71A1.pdf.

⁴ See National Congress of American Indians. Resolution #MSP-15-036, "Preserve the Universal Service Fund Lifeline & Link Up Programs for All Tribal Lands and All Native Peoples". Adopted at NCAI's 2015 Mid Year Conference in St. Paul, MN, June 28 to July 1, 2015. Available at http://www.ncai.org/attachments/Resolution_ylGEddzoQfAXfWjTAyAqBAuHyXiTEbhOrUfJIJyXpGMXMjHwNjx_MSP-15-036.pdf.

⁵ *Id.* Pg. 2.

⁶ See Testimony of the Honorable Stephen Roe Lewis, Governor, Gila River Indian Community. House Subcommittee on Communications and Technology Oversight Hearing on "Promoting Broadband Infrastructure Investments". Pg. 2. July 22, 2015. Available at <http://docs.house.gov/meetings/IF/IF16/20150722/103745/HHRG-114-IF16-Wstate-LewisS-20150722.pdf>.

⁷ See U.S. Census Bureau. State & County Quick Facts. Accessed August, 31, 2015: Pinal County, Arizona, available at <http://quickfacts.census.gov/qfd/states/04/04021.html>, and Maricopa County, Arizona, available at <http://quickfacts.census.gov/qfd/states/04/04013.html>.

⁸ See Testimony of the Honorable Stephen Roe Lewis, Governor, Gila River Indian Community. House Subcommittee on Communications and Technology Oversight Hearing on "Promoting Broadband Infrastructure Investments". Pg. 2. July 22, 2015. Available at <http://docs.house.gov/meetings/IF/IF16/20150722/103745/HHRG-114-IF16-Wstate-LewisS-20150722.pdf>.

services to members throughout its reservation. As an eligible telecommunications carrier (ETC), GRTI has been able to access vital Universal Service Funds to support ongoing deployment and maintenance of this vital infrastructure.

Many residents of tribal lands across the country would experience detrimental circumstances if a proposal to limit the enhanced tribal subsidy to sparsely populated areas is adopted. For instance, the Pueblo of Laguna spans across four counties and borders Albuquerque, NM, a city with a 2013 population estimate of 556,833 people.⁹ The Pueblo of Laguna has a population of 4,043 and its reservation spans across parts of Cibola County (six people/sq. mile), Sandoval County (35 people/sq. mile), Valencia County (72 people/sq. mile), and Bernalillo County (571 people/sq. mile).¹⁰ Laguna Pueblo has a median household income of \$30,156, and 36 percent of its people live below the poverty level.¹¹ Similarly, the Pueblo of Sandia has a population of 4,965, borders Albuquerque, NM, and also resides within parts of Sandoval and Bernalillo Counties.¹² Residents of the Pueblo of Sandia have a median household income of \$37,675 and 27 percent of people living below the poverty level.¹³

Many tribal lands border urban, suburban, or metropolitan areas, but their proximity to these areas does not always correlate to increased economic opportunity for residents, or increased access to affordable or advanced telecommunications services on tribal lands. The Commission is well aware of the disparate levels of telecommunications services and the many regulatory, legal, and financial barriers to telephone and Internet deployment on tribal lands. The assumption that market forces will spread advanced telecommunications infrastructure from densely populated areas to rural and tribal lands has proven erroneous as historical shifts in technology have only broadened the Digital Divide in Indian Country.

In response to the Commission's inquiry in paragraphs 169 and 170 of the FNPRM, NCAI strongly urges the FCC to maintain the enhanced tribal Lifeline subsidy for *all* residents of tribal lands, regardless of geographic population density. In light of this recommendation areas with high-population densities of tribal populations—like Tulsa, OK, Chandler, AZ, Anchorage, AK, and Reno, NV—should still be eligible for the enhanced tribal Lifeline subsidy. Tribal populations are mobile and often move to economic centers for jobs, but that does not always correlate into improved socio-economic circumstances for tribal members. In the 2012 reform and modernization of the Lifeline and Link Up Programs the Commission adopted a process for tribal nations to designate lands outside the exterior boundaries of a reservation and with a close nexus as eligible for the enhanced tribal Lifeline subsidy.¹⁴ The Commission should maintain this practice and

⁹ See U.S. Census Bureau. State & County Quick Facts. Accessed August, 31, 2015: Albuquerque, New Mexico, *available at* <http://quickfacts.census.gov/qfd/states/35/3502000.html>.

¹⁰ See U.S. Census Bureau. State & County Quick Facts. Accessed August, 31, 2015: Cibola County, New Mexico, *available at* <http://quickfacts.census.gov/qfd/states/35/35006.html>, Sandoval County, NM, *available at* <http://quickfacts.census.gov/qfd/states/35/35043.html>, Valencia County, NM, *available at* (cont'd from previous page) <http://quickfacts.census.gov/qfd/states/35/35061.html>, and Bernalillo County, NM *available at* <http://quickfacts.census.gov/qfd/states/35/35001.html>.

See also U.S. Census Bureau. Selected Economic Characteristics: 2009-2013 American Community Survey 5-Year Estimates. "Laguna Pueblo and Off-Reservation Trust Land, NM". Accessed August 31, 2015.

¹¹ See U.S. Census Bureau. Selected Economic Characteristics: 2009-2013 American Community Survey 5-Year Estimates. "Laguna Pueblo and Off-Reservation Trust Land, NM". Accessed August 31, 2015.

¹² See U.S. Census Bureau. "Profile of General Population and Housing Characteristics: 2010 Demographic Profile Data—Geography: Sandia Pueblo, NM." Accessed August 31, 2015.

¹³ See U.S. Census Bureau. "Selected Economic Characteristics: 2009-2013 American Community Survey 5-Year Estimates—Sandia Pueblo, NM". Accessed August 31, 2015.

¹⁴ See U.S. Government Publishing Office. 47 CFR § 54.412 – Off Reservation Tribal Lands Designation Process. *Available at* <http://www.gpo.gov/fdsys/pkg/CFR-2012-title47-vol3/pdf/CFR-2012-title47-vol3-sec54-412.pdf>.

conduct outreach to tribes about the processes established under 47 CFR § 54.412 to ensure the eligibility and enrollment of low-income tribal members in the enhanced tribal Lifeline program.

THE COMMISSION SHOULD INCREASE MINIMUM SERVICE LEVEL REQUIREMENTS FOR RESIDENTS ON TRIBAL LANDS

The enhanced tribal Lifeline subsidy was established in 2000, during a time when the availability and affordability of cell phone services was not as abundant as it is today. In paragraph 47 of the FNPRM, the Commission poses questions regarding the implementation of a minimum service level for the tribal Lifeline program. The current tribal Lifeline discount offering up to \$34.25 for eligible residents of tribal lands has not been increased since it was established in 2000. In the FNPRM the Commission recognized that the Oklahoma Corporation Commission, “requires ETCs to provide a large number of minutes each month to Lifeline subscribers on tribal lands, which is significantly higher than what ETCs typically offer to non-Tribal Lifeline consumers.”¹⁵ The Commission should require ETCs receiving the enhanced tribal Lifeline subsidy to provide an increased number of minutes to residents of tribal lands.

Due to the economic disparities that exist on many tribal lands some tribal social service departments, or even federal offices operating on tribal lands, are severely understaffed due to budgetary constraints. As a result, a tribal consumer using a Lifeline device to phone the tribal social service department or other governmental entity may be placed on hold for periods of time exceeding 30 minutes, thereby rapidly diminishing the number of minutes available for emergencies or other instances where the tribal consumer may need to contact a potential employer or other service entity. Additionally, the FCC should only require ETCs receiving High Cost Funds as eligible to provide the enhanced tribal Lifeline and Link Up services. Absent financial incentive to deploy telecommunications infrastructure to tribal lands, market forces have failed to spur telecommunications deployment to tribal lands. Without the necessary infrastructure in place, the Lifeline and Link Up programs cannot succeed in fulfilling the Commission’s universal service principles of bringing accessible and affordable telecommunications services to residents of tribal lands.

Additionally, the Commission poses questions in paragraphs 111 through 117 regarding proposals to streamline eligibility for Lifeline support. Specifically, the Commission seeks comment on which federal assistance programs it should continue to use to qualify low-income consumers for Lifeline support. The Commission referenced the addition of the Food Distribution Program on Indian Reservations (FDPIR) to the list of eligible Lifeline programs in the 2012 Lifeline Reform Order, and that this decision was made in recognition that tribal members enrolled in FDPIR were not participating in the Supplemental Nutrition Assistance Program (SNAP).¹⁶

NCAI strongly recommends that the Commission retain federal tribal programs (e.g. BIA General Assistance, Tribally-Administered Temporary Assistance for Needy Families, FDPIR, etc.)

¹⁵ See Federal Communications Commission. “Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order: WC Docket No. 11-42; WC Docket No. 09-197; WC Docket No. 10-90”. Pgs. 23-24, ¶47. Released June 22, 2015. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-71A1.pdf.

¹⁶ *Id.* Pg 43, ¶113. “In particular, as the Commission noted in the *Lifeline Reform* Order, because both SNAP and the Food Distribution Program on Indian Reservations (FDPIR) have income-based eligibility criteria, but households may not participate in both programs, some residents of Tribal lands did not qualify for Lifeline support simply because they chose to participate in FDPIR rather than SNAP. When adopting FDPIR as an additional assistance program that would qualify eligible residents of Tribal lands for Lifeline and Link Up, the Commission noted further that members of more than 200 tribes currently receive benefits under FDPIR, and that elderly Tribal residents often opt for FDPIR benefits.”

to qualify low-income consumers for support under the Lifeline and enhanced tribal Lifeline program. Funding for federal programs established in accordance with the federal trust relationship with tribal nations are historically and continually underfunded through the federal appropriations process. The current fiscal climate has also resulted in negative impacts to funding for tribal programs at the Bureau of Indian Affairs and other agencies since many of these programs are defined as ‘discretionary funding’ in the federal budget. In recognition of this fiscal climate, where many low-income programs are either operating under a Continuing Resolution or defunded through the appropriations process, the Commission must retain its list of current federal assistance programs to enroll low-income individuals in the Lifeline program; if the list of Lifeline eligible programs is further limited it could otherwise preclude low-income individuals from obtaining these vital services.

CONSULTATION WITH TRIBAL NATIONS SHOULD COMMENCE PRIOR TO THE FINAL REDESIGNATION OF TRIBAL LANDS IN OKLAHOMA

Under the Report and Order (R&O) of the rulemaking the Commission ruled to redefine “former reservations in Oklahoma” under section 54.400(e) of the FCC’s rules to reflect the geographic boundaries of a Historical Map of Oklahoma between 1870 and 1890. This decision was adopted by the Commission without any formal consultation or outreach to tribes in Oklahoma prior to the adoption of the R&O in June 2015. The FCC directed its Office of Native Affairs and Policy (FCC-ONAP) to consult with tribal nations in Oklahoma to ascertain the accurateness of the tribal lands boundaries illustrated in the Historical Map, and FCC-ONAP hosted two tribal consultations in August 2015 in Norman, OK and Tulsa, OK.

The Historical Map of Oklahoma was obtained from the Bureau of Indian Affairs and does not contain any GIS or other descriptive data demarcating the boundaries of former reservation lands in Oklahoma. While the Commission ruled on a 180 day transition period before the map is implemented, NCAI strongly urges the Commission to initiate meaningful consultation with tribal nations in Oklahoma to ensure that tribal boundaries are accurately demarcated by GIS or other means. The Commission should also actively work with tribes to implement processes under 47 CFR § 54.412 to designate tribal lands eligible for enhanced tribal Lifeline support. Such actions adhere to and support the FCC’s *2000 Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes* and uphold the Commission’s mandated goals of universal service.¹⁷

FURTHER REFORM AND MODERNIZATION MUST SUPPORT TRIBAL ACCESS TO NEXT-GENERATION TELECOMMUNICATIONS SERVICES

As the Commission proceeds to reform and modernize the Lifeline program, NCAI strongly urges the FCC to consider the record of evidence regarding the disparate levels in access and affordability of telecommunications services on tribal lands. While this rulemaking is focused on transitioning the FCC’s low-income programs to support broadband service, it is critical to recognize that historical and ongoing shifts in technology and service have only increased the Digital Divide on tribal lands. For instance, according to the FCC’s 2015 Broadband Progress Report, 63 percent of residents on tribal lands lack access to fixed broadband speeds of 25 Mbps/3

¹⁷ See Federal Communications Commission. *2000 Statement of Policy on Establishing a Government-to-Government Relationship with Indian Tribes*. Released June 23, 2000. Available at <https://www.fcc.gov/Bureaus/OGC/Orders/2000/fcc00207.doc>.

Mbps, compared to 17 percent of the overall U.S. population.¹⁸ While the FCC recently changed the speed benchmark for what constitutes high-speed broadband services, the 2015 report also recognizes the overall telecommunications disparities on tribal lands at lower speeds, as highlighted below:

TRIBAL LANDS WITHOUT ACCESS TO FIXED BROADBAND (2011-2013)¹⁹				
	Year	3 Mbps/768 kbps	10 Mbps/768 kbps	25 Mbps/3 Mbps
Tribal Lands	2011	23%	38%	62%
	2012	19%	37%	68%
	2013	17%	33%	63%
Alaskan Villages	2011	36%	40%	100%
	2012	19%	37%	100%
	2013	25%	41%	63%
Hawaiian Home Lands	2011	1%	1%	7%
	2012	1%	1%	8%
	2013	2%	2%	9%
Tribal Lands in the Lower 48 States	2011	45%	60%	75%
	2012	36%	51%	71%
	2013	33%	48%	68%
Tribal Statistical Areas	2011	13%	30%	53%
	2012	13%	31%	65%
	2013	9%	27%	62%

As the Commission continues to transition universal service funding to support broadband and next-generation technologies and services, careful consideration must be afforded to tribal lands—many of which lack even basic telephone service. We look forward to working with the Commission to provide further input and recommendations to advance policies that improve the accessibility and affordability of telecommunications services to residents of tribal lands. If you have any questions or concerns please contact NCAI Legislative Associate, Brian Howard, at bhoward@ncai.org.

Sincerely,



Jacqueline Pata
Executive Director
National Congress of American Indians

¹⁸ See Federal Communications Commission, 2015 Broadband Progress Report and Notice of Inquiry on Immediate Action to Accelerate Deployment, February 4, 2105. Pg. 43. Available at https://apps.fcc.gov/edocs_public/attachmatch/FCC-15-10A1.pdf.

¹⁹ *Id.* Table 8: Tribal Lands Without Access to Fixed Broadband (2011-2013). Page 50.